

REMARKS

Favorable reconsideration of this application in view of the remarks to follow is respectfully requested. Since the present Response raises no new issues, and in any event, places the application in better condition for consideration on appeal, entry thereof is respectfully requested under the provisions of 37 C.F.R. §1.116.

Further search is not required for consideration of amended Claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 23, 25, 28, 30, 32, 33, and 36 since the proposed amendments are either directed to revising claim format or deleting terms included within the originally submitted claims. Therefore, previous searches relating to the claimed process for producing a modified asphalt composition, and product produced therefrom, are applicable to amended Claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 23, 25, 28, 30, 32, 33, and 36. Since the above amendments do not introduce any new matter into the application entry thereof is respectfully requested.

Claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 23, 25, 28, 30, 32, 33, and 36 are objected to for allegedly containing improper Markush language. In response to the Examiner's comments and for the purposes of advancing prosecution, applicants have amended the above claims to replace the conjunction "or" following the terms "selected from the group consisting of" with the conjunction "and", therefore providing proper Markush language. Claim 11 has also been amended to recite the terms "selected from the group consisting of" to provide proper Markush format. Therefore, in light of the current amendment to the above

claims the objection has been obviated. Accordingly, the objections to Claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 23, 25, 28, 30, 32, 33, and 36 are overcome and withdrawal thereof is respectfully requested.

Claims 15 and 36 stand rejected, under 35 U.S.C. §112, second paragraph, as allegedly indefinite for containing the term “derivative”. Despite applicants’ position that “derivative” is a term well known within the ordinary skill of the art to which the invention pertains, applicants have amended Claims 15 and 36 to remove the term “derivative” for the purposes of advancing prosecution. Therefore, in light of the current amendments to the above claims, the rejections under 35 U.S.C. §112, second paragraph, have been obviated. Accordingly, the rejections of Claims 15 and 36 are overcome and withdrawal thereof is respectfully requested.

Referring to Page 3 of the final Office Action, the Examiner has admitted that dependent Claims 3, 6, 8, 10, 13, 14, 17-22, 24, 25, 27, 29, 31, 34 and 35 are allowable subject matter if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph, and objections as discussed above. Therefore, since the 35 U.S.C. §112, second paragraph, rejection and objections have been obviated, dependent Claims 3, 6, 8, 10, 13, 14, 17-22, 24, 25, 27, 29, 31, 34 and 35 are in condition for allowance.

Applicants submit that the currently amended Claims are in condition for allowance, which action is earnestly solicited.

Respectfully Submitted



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